

Public Hearing
August 14, 2003

A Public Hearing was held August 14, 2003 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. The purpose of the hearing was to Consider Local Law No. 1 of the year 2003 entitled "Amendment to the Code of the Town of Marilla Placing a Six Month Moratorium on the Granting of Special Permits for Construction and Operation of Golf Courses Within the Town." The proposed Local Law will temporarily amend § 210-40 E. (4) and (7) and § 210-41 E. (2) of the code to refuse to accept any new applications for special permits for construction and operation of golf courses after July 22, 2003 and continuing until the effective date of this Local Law and for a six month period thereafter. The Town Clerk presented affidavits showing that certified copies of the Order Calling a Public Hearing had been published and posted pursuant to the provisions of the Town Law. Approximately (12) persons were in attendance. Officials present were:

John R. Foss, Supervisor
Earl Gingerich, Jr., Councilman
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman

Supervisor Foss stated that the Public Hearing on Local law No.1 was now open and asked if there was any interested person who desired to be heard.

Hearing no comments from those in attendance, the hearing was closed at 7:33 p.m.

Respectfully Submitted,

Regular Meeting
August 14, 2003

A Regular Meeting of the Marilla Town Board was held August 14, 2003 at 7:35 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

John R. Foss, Supervisor
Earl Gingerich, Jr., Councilman
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman

Supervisor Foss called the meeting to order and the Pledge of Allegiance to the Flag was given.

Communications

Tri-Town Soccer thanked the Town Board for the use of the Soccer Fields on Eastwood Road.

Allied Sportsmen of Western notified the Town of their renewal application for their New York State Liquor License.

Committee Reports

Highway Superintendent Dave Pierce reported that for the last three weeks the Town Park has had water problems but they are hopefully resolved and we apologize for any inconvenience this caused to anyone. He also reported that Erie County Highway should be done with blacking topping Cayuga Creek and Four Rod Roads next week.

Public Hearing
August 14, 2003

Councilman Gingerich reported that the Conservation Advisory Board will be meeting on September 16th and the next Sesquicentennial Meeting will be September 16th and we are now selling Sesquicentennial mugs along with the other merchandise which is now available at the Marilla County Store and the Town Hall.

Councilman Spanitz reported that the Pavilion construction has begun. She wanted to commend the Planning Board for their diligent work along with Bob Miller the Consultant from Nussbaumer & Clark, she is impressed by all their hard work.

Councilman Specht reported that two people attended the Town Boards last work session asking if an article they had read in the paper about the request for two additional soccer fields at the Eastwood Road facility was true. He stated the Town has no plans for any additional soccer fields at this time. He also reported that the Town should be on line with the T-1 line by the end of the year.

Councilman Gertz reported that there will be a meeting on August 19th at 7:30 with Bob McVie concerning the Firemens Service Award.

Supervisor Foss reported that the demolition of the Agway building is complete. The site has been graded and prepared for raking and seeding. Zoldaz Construction will complete this part of the contract after all the other work is done. The entire area will then be seeded at the same time. The project is running behind schedule due to the asbestos removal and the fuel tank the contractor discovered when doing the grading. The tank was removed with DEC approval and the soil tests showed no residue from the tank. We still hope to complete the entire project by the end of September. Part of the paving project will include putting in an asphalt sidewalk in front of the parking area on Bullis Road. We believe it will be a lot safer for walkers to not have to walk in the street as Bullis Road is a very busy road.

Town Department heads now have their budget request forms for 2004 and they must be returned by August 22nd. I plan on having the budget done in early September and have it available for our Fall Newsletter.

Open Board Presentation From the Public

Barbara Hazel of Townline Road asked what happened to the box for old flags? She also reported that for those people who don't have power, NYSEG will be having areas where you can pick up dry ice.

Supervisor Foss explained that the box for old flags is only there for a short period of time once a year by a gentlemen in Wales, he offered to get the flags to him if she would bring them in.

Old Business

Motion: Councilman Gingerich moved, seconded by Councilman Specht to approve the Minutes from the Regular Board Meeting held on 7/10/2003. Motion Carried.

New Business

Motion: Councilman Spanitz moved, seconded by Councilman Gingerich to authorize the Marilla Fire Company access to use the Town Highway Department grounds for some training evolutions. Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Specht to authorize the Supervisor to pay the following change orders; \$3,500 for removal of the fuel tank and \$2,500 to fill the cistern to Zoldaz for the Agway demolition. Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to authorize the Supervisor to sign the Negative Declaration of proposed Local Law No. 5 for the State Environmental Quality Review Act as follows:

Public Hearing

August 14, 2003

WHEREAS, the Town Board of the Town of Marilla is considering adoption of a Local Law placing a six month moratorium on the granting of special permits for construction and operation of golf courses and has determined that such action is Type II action under SEQRA and therefore no other action is required

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Marilla, after considering the action proposed herein, in reviewing the criteria contained in Section 617.11 of the Rules and Regulations of the SEQRA Regulations and thoroughly analyzing the project with respect to potential environmental concerns, determines that the action will not have a significant effect on the environment and that no further action is required by the Town of Marilla

Roll Call Vote:

Supervisor Foss – aye

Councilman Spanitz – aye

Councilman Specht – aye

Councilman Gertz – aye

Councilman Gingerich – aye

Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Gingerich to approve Local Law No. 1 of the year 2003 as follows:

A Local Law known as Local Law No. 1 of the Year 2003 entitled “Amendment to the Code of the Town of Marilla Placing a Six Month Moratorium on the Granting of Special Permits for Construction and Operation of Golf Courses Within the Town”.

Be in enacted by the Town Board of the Town of Marilla as follows:

SECTION 1. TITLE

This Law shall be known as Local Law No. 1 of the Year 2003 entitled “Amendment to the Code of the Town of Marilla Placing a Six Month Moratorium on the Granting of Special Permits for Construction and Operation of Golf Courses Within the Town”.

SECTION 2. PURPOSE

The purpose of this local law is to amend the Code to place a six month moratorium on the granting of special permits for construction and operation of golf courses within the Town to allow the Town Planning Board and the Town Board to formulate proposed changes to the Zoning Law of the Town of Marilla including the enactment of design standards for golf course construction and operation including, but not limited to, storm water drainage, screening and buffer zones.

SECTION 3. AMENDMENT OF PRIOR LAW Chapter 210 of the Code of the Town of Marilla adopted on March 11, 1999 by Local Law No. 1 of the Year 1999 is amended as follows:

Section 210-40 E. (4) is amended to add an additional sentence after “Not-for-profit public and semipublic uses and buildings, excluding gun clubs.” which shall read as follows:

“For the period commencing on the effective date of this local law and for six months thereafter or until such earlier date as the Town Board adopts changes to its Zoning Law dealing with design standards for golf course construction and operation, the Town of Marilla shall not consider any new applications for the granting of special permits for construction and operation of golf courses. The Town of Marilla will continue the

Public Hearing

August 14, 2003

processing of applications for such special permits with respect to complete applications that were submitted to the Town of Marilla prior to June 12, 2003. For purposes of this Local Law an application shall not be deemed a complete application unless all items required for approval have been received by the Town of Marilla prior to June 12, 2003.”

“Notwithstanding the foregoing provision, an applicant for a special permit to construct and operate a golf course, may request relief from the moratorium based upon undue hardship. The Town Board will consider such request on a case by case basis. If relief is granted, as a condition of such relief from the six month moratorium, the applicant will have to agree to comply with any new design standards that may be imposed on golf course construction and operation as a result of the Town’s review of design standards.”

Section 210-40 E. (7) is amended to add an additional sentence after “Commercial recreation uses, excluding firing ranges and amusement arcades.” which shall read as follows:

“For the period commencing on the effective date of this local law and for six months thereafter or until such earlier date as the Town Board adopts changes to its Zoning Law dealing with design standards for golf course construction and operation, the Town of Marilla shall not consider any new applications for the granting of special permits for construction and operation of golf courses. The Town of Marilla will continue the processing of applications for such special permits with respect to complete applications that were submitted to the Town of Marilla prior to June 12, 2003. For purposes of this Local Law an application shall not be deemed a complete application unless all items required for approval have been received by the Town of Marilla prior to June 12, 2003.”

“Notwithstanding the foregoing provision, an applicant for a special permit to construct and operate a golf course, may request relief from the moratorium based upon undue hardship. The Town Board will consider such request on a case by case basis. If relief is granted, as a condition of such relief from the six month moratorium, the applicant will have to agree to comply with any new design standards that may be imposed on golf course construction and operation as a result of the Town’s review of design standards.”

Section 210-41 E. (2) is amended to add an additional sentence after “Not-for-profit public and semipublic uses and buildings.” which shall read as follows:

“For the period commencing on the effective date of this local law and for six months thereafter or until such earlier date as the Town Board adopts changes to its Zoning Law dealing with design standards for golf course construction and operation, the Town of Marilla shall not consider any new applications for the granting of special permits for construction and operation of golf courses. The Town of Marilla will continue the processing of applications for such special permits with respect to complete applications that were submitted to the Town of Marilla prior to June 12, 2003. For purposes of this Local Law an application shall not be deemed a complete application unless all items required for approval have been received by the Town of Marilla prior to June 12, 2003.”

“Notwithstanding the foregoing provision, an applicant for a special permit to construct and operate a golf course, may request relief from the moratorium based upon undue hardship. The Town Board will consider such request on a case by case basis. If relief is granted, as a condition of such relief from the six month moratorium, the applicant will have to agree to comply with any new design standards that may be imposed on golf course construction and operation as a result of the Town’s review of design standards.”

Public Hearing

August 14, 2003

SECTION 4. SEVERABILITY

If any portion, subsection, sentence, clause, phrase or portion thereof this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity of the remaining portion thereof.

SECTION 5. WHEN EFFECTIVE

This Local Law shall become effective immediately upon its filing in the office of the Secretary of State.

Roll Call Vote:

Supervisor Foss – aye

Councilman Spanitz – aye

Councilman Specht – aye

Councilman Gertz – aye

Councilman Gingerich – aye

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Specht to allow EMW Soccer Board to use the Eastwood Road soccer fields for practices for the last few weeks in August.
Motion Carried.

Motion: Councilman Gingerich moved, seconded by Councilman Spanitz to authorize the purchase of Sesquicentennial Fund Raising materials from account A7550.4 in the amount of \$4,612.75. Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Gertz to authorize the Supervisor to transfer from the contingency account A1990.4 to the celebrations account A7550.4 the amount of \$5,819.38. Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to approve the following resolution for the map plan and report for formation of a Water District in Cooperation with the Towns of Aurora, Wales and Holland subject to permissive referendum:

WHEREAS, the Towns of Aurora, Wales, Holland and Marilla are experiencing a significant need to extend public water systems to residents suffering from a serious shortage in quantity and/or quality of drinking water from ground water wells; and

WHEREAS, the Erie County Water Authority has sufficient capacity and ability to supply water to the above mentioned Towns; and

WHEREAS, the County of Erie has proposed to act as lead agency for the proposed regional water project involving the Towns of Aurora, Wales, Holland and Marilla; and

WHEREAS, the County of Erie has indicated that it will be seeking to pursue the optimal financing/funding arrangements through the New York Drinking Water State Revolving Fund (NYDWSRF) for a regional water project comprised of areas in the Towns of Aurora, Wales, Holland and Marilla;

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS

1. That the Town of Marilla will cooperate and participate with the Towns of Aurora, Wales and Holland in a regional water project through a water district proposed to be formed by the Town of Marilla and in cooperation with water districts to be formed in the Towns of Aurora, Wales and Holland.
2. That the Town of Marilla will agree to support Erie County's request for

Public Hearing

August 14, 2003

lead agency in pursuit of funding for such projects.

3. That the Town of Marilla will participate in an EFC sponsored funding round table discussion to be scheduled at a later date.
4. That the Town of Marilla will share equally in the cost of the preparation of a Map, Plan & Report document for the proposed water project to facilitate an application for funding, formation of water districts and preparation of intermunicipal agreements for debt service payments at a cost of not to exceed \$2400 for the Town of Marilla's share of such cost.
5. That the Town Supervisor is authorized to sign the appropriate work agreement following consultation with the Attorney for the Town.
6. This resolution shall be subject to permissive referendum in accordance with the provisions of Section 209-b of the Town Law.

Roll Call Vote:

Supervisor Foss – aye

Councilman Spanitz – aye

Councilman Specht – aye

Councilman Gertz – aye

Councilman Gingerich – aye

Motion Carried.

Motion: Councilman Gingerich moved, seconded by Councilman Spanitz to authorize Highway Superintendent to attend Fall Conference. Motion Carried.

Report of Town Officials

Supervisor Foss reported for Town Engineer Mike Smith that Nussbaumer & Clarke, Inc. surveyors re-staked the property corners for the Agway site at the Supervisor's request. This was done to insure the original stakes had not been altered during the demolition project. He also reported that they had received a letter from New York State DEC on the landfill inspection and the only negative comment was on a missing lock for one of the wells, Dave Pierce corrected the situation. He reported that he had checked with Rural Development concerning Water 5 and they are behind schedule in getting a pre-eligibility determination performed. In speaking with their office they should have something to the Town prior to the September meeting. Planning Board Consultant, Bob Miller has been working on an original draft of golf course regulations with the Planning Board.

Building Inspector John Fronczek submitted a written report with 20 building applications received with fees totaling \$1,710.00, 20 building permits issued with a total value of \$786,655, 14 inspections were made and 1 complaint was acted on. One Variance application was received. There were a total of 252 activities.

Town Attorney Nathan Neill commented that the Resolution for the Map Plan and Report had been received today from the Town Engineer at the last minute. He felt this was not the proper way to do business, it should go through the legal channels with enough time to review it.

Planning Board minutes received and posted, Planning Board Chairman Judy Gillman reported that they are working on the golf course regulations and the next meeting will be held on next Thursday at 7:30 pm.

CAB minutes have been received and posted.

Town Historian Hubert Kutter reported that we have a nice exhibit at the Erie County Fair and he wanted to thank all the Historical Society Members that worked on it. He also stated that the Sesquicentennial history book is coming along nicely, we are about half way through. He wanted to take this opportunity to express deep regret for the passing of Historical Society member and Town Resident, Jack Scorsone, who passed away on August 5th.

Public Hearing
August 14, 2003

Bill Blarr from the Marilla Fire Company reported that the Fire Company will hold an Open House on Sunday afternoon from 12:00 pm to 5:00 pm.

Open Board Presentations

Supervisor Foss commented on regionalism, he is not in favor of closing smaller local libraries to save money, but on the other side it works with projects such as the Town joining in with Wales, Holland and Aurora on the Water District. It was gracious of them to ask us to join in and it makes it economical for everyone.

Planning Board Member and Resident Dan Handy wanted to commend Dave Pierce on the wonderful job they did paving Eldridge Road.

All claims have been previously reviewed by Councilman Spanitz and Councilman Gertz.

Motion: Councilman Spanitz moved, seconded by Councilman Gertz to approve the claims as follows:

General Fund Claims, Vouchers 324-370	\$	29,175.11
Highway Fund Claims, Vouchers 123-143	\$	54,595.22
Special Districts		
Sanitation (SR), Vouchers 86-97	\$	13,489.17
Special Lighting, Voucher	\$.00
Special Fire, Vouchers 8	\$	14,592.89
Water District #2, Vouchers 25-26	\$	2,306.92
Water District #3, Voucher 10	\$	1,231.19
Water District #4, Vouchers 8	\$	743.59
Community Develop. PACE vouchers	\$.00

Motion Carried.

Motion: Councilman Gingerich moved, seconded by Councilman Specht to adjourn at 8:05p.m. Motion Carried.

Respectfully submitted,

_____ Town Clerk	_____ Supervisor
_____ Councilman	_____ Councilman
_____ Councilman	_____ Councilman